

EXHIBIT 4

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE STATIC RANDOM ACCESS
MEMORY (SRAM) ANTITRUST
LITIGATION

Case No. M:07-CV-01819-CW
MDL No. 1819

This Document Relates to:
ALL INDIRECT PURCHASER ACTIONS

**FIRST CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT FOR
VIOLATIONS OF FEDERAL AND STATE
ANTITRUST LAWS, STATE CONSUMER
PROTECTION LAWS AND STATE
COMMON LAW OF UNJUST
ENRICHMENT**

JURY TRIAL DEMANDED

Plaintiffs, by their attorneys, bring this civil action for damages and injunctive relief on behalf of themselves and all others similarly situated against the Defendants named herein, and demanding a trial by jury, complain and allege as follows:

JURISDICTION AND VENUE

1. This complaint is filed under Section 16 of the Clayton Act, 15 U.S.C. §26, to obtain injunctive relief for violations of Section 1 of the Sherman Act, 15 U.S.C. §1, to recover damages or restitution under state antitrust and consumer protection laws, and to recover the costs of suit, including reasonable attorneys' fees, for the injuries that Plaintiffs

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and all others similarly situated sustained as a result of the Defendants' violations of those laws.

2. The Court has jurisdiction over the federal claim under 28 U.S.C. §§1331 and 1337. The Court has jurisdiction over the state law claims under 28 U.S.C. §1367 because those claims are so related to the federal claim that they form part of the same case or controversy. The Court also has jurisdiction over the state law claims under 28 U.S.C. §1332 because the amount in controversy for the Class exceeds \$5,000,000, and there are members of the Class who are citizens of a different state than the Defendants.

3. Venue is proper in this District under 15 U.S.C. §22 and 28 U.S.C. §1391 because Defendants reside, transact business, or are found within this District, and a substantial part of the events giving rise to the claims arose in this District.

4. The activities of the Defendants and their co-conspirators, as described herein, were within the flow of, were intended to, and did have a substantial effect on the foreign and interstate commerce of the United States. Defendants' conspiracy further substantially affected commerce in California, and accordingly, Defendants and their co-conspirators have purportedly availed themselves of California's laws.

DEFINITIONS

5. As used herein, the term “Static Random Access Memory” (“SRAM”) includes all types of static random access memory sold during the Class Period. SRAM is a type of memory that is faster and more reliable than dynamic random access memory (“DRAM”). The term “static” is derived from the fact that SRAM does not need to be refreshed like DRAM. While DRAM supports access times of about 60 nanoseconds, SRAM can give access times of 10 nanoseconds. In addition, its cycle time is much shorter than that of DRAM because it does not need to pause between accesses.

6. As used herein, the term “computer” refers to both desktop and mobile computers (primarily laptop computers), workstations and servers.

7. As used herein, the term “Class Period” means the time period November 1, 1996 through at least December 31, 2006.

THE PARTIES

A. The Plaintiffs.

8. The following named Plaintiffs, who are residents of the state/commonwealth district or territory listed. Plaintiff Javier Oyola Alemany is a resident of Puerto Rico who indirectly purchased SRAM manufactured and/or sold by one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

9. Plaintiff James Allen is a resident of Massachusetts who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct. Pursuant to Mass. Gen. L. 93A, §9, Plaintiff mailed a written demand for relief to Defendants at least 30 days prior to filing his initial complaint. No Defendant responded with a reasonable tender of settlement.

10. Plaintiff Justus Austin III is a resident of Michigan who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

11. Plaintiff Renae Awakuni is a resident of Hawaii who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale and primarily for personal, household, or family purposes, and was injured as a result of Defendants' illegal conduct. Pursuant to Hawaii Rev. Stat. §480-13.3, Plaintiff filed her initial Complaint under seal and served a copy on Hawaii's Attorney General within seven days. Following expiration of the statutory review period, the Hawaii Attorney General informed the United States District Court for the District of Hawaii that it would not proceed with the action or file its own action involving the same or similar claims as set forth in Plaintiff's initial Complaint.

12. Plaintiff Michael Francis Ayers is a resident of Massachusetts who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators

1 during the Class Period, for end use and not for resale, and was injured as a result of
2 Defendants' illegal conduct.

3 13. Plaintiff Kenneth Bagwell is a resident of Michigan resident who
4 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
5 during the Class Period, for end use and not for resale, and was injured as a result of
6 Defendants' illegal conduct.

7 14. Plaintiff Michael Baranic is a resident of California who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
10 conduct.

11 15. Plaintiff James W. Barnes is a resident of California who indirectly
12 purchased SRAM from one or more of the Defendants or their co-conspirators during the
13 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
14 conduct.

15 16. Plaintiff Ronnie Barnes is a resident of Florida who indirectly
16 purchased SRAM from one or more of the Defendants or their co-conspirators during the
17 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
18 conduct.

19 17. Plaintiff Robert C. Bedore, Jr. is a resident of Maine who indirectly
20 purchased SRAM from one or more of the Defendants or their co-conspirators during the
21 Class Period, for end use and not for resale and primarily for personal, family, or household
22 purposes, and was injured as a result of Defendants' illegal conduct.

23 18. Plaintiff Joshua A. Belke is a resident of Wisconsin who indirectly
24 purchased SRAM from one or more of the Defendants or their co-conspirators during the
25 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
26 conduct.

27 19. Plaintiff Todd Berg is a California resident who indirectly purchased
28 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,

for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

20. Plaintiff Ron Birdsong, individually, and on behalf of Birdsong Air Conditioning and Heating Services is a resident of Tennessee who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

21. Plaintiff Terry Bisel is a resident of California who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

22. Plaintiff Rebecca Bly is a resident of the District of Columbia who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale and primarily for personal, family, or household use, and was injured as a result of Defendants' illegal conduct.

23. Plaintiff Michael Brooks is a resident of California who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

24. Plaintiff Reuben Canada is a resident of the District of Columbia who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale and primarily for personal, family, or household use, and was injured as a result of Defendants' illegal conduct.

25. Plaintiff Carlos R. Carrillo is a resident of Puerto Rico who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

26. Plaintiff Ward Cater is a resident of North Dakota who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the

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1 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
2 conduct.

3 27. Plaintiff Scott L. Clarke is a resident of Maine who indirectly
4 purchased SRAM from one or more of the Defendants or their co-conspirators during the
5 Class Period, for end use and not for resale and primarily for personal, family, or household
6 purposes, and was injured as a result of Defendants' illegal conduct.

7 28. Plaintiff Christopher C. Crawford is a resident of South Dakota who
8 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
9 during the Class Period, for end use and not for resale, and was injured as a result of
10 Defendants' illegal conduct.

11 29. Plaintiff Romney Darkins is a resident of California who indirectly
12 purchased SRAM from one or more of the Defendants or their co-conspirators during the
13 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
14 conduct.

15 30. Plaintiff Ryan Edwards is a resident of Florida who indirectly
16 purchased SRAM from one or more of the Defendants or their co-conspirators during the
17 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
18 conduct.

19 31. Plaintiff Judd Eliasoph is a resident of California who indirectly
20 purchased SRAM from one or more of the Defendants or their co-conspirators during the
21 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
22 conduct.

23 32. Plaintiff Fairmont Orthopedics & Sports Medicine, P.A. is a Minnesota
24 company that indirectly purchased SRAM from one or more of the Defendants or their co-
25 conspirators during the Class Period, for end use and not for resale, and was injured as a result
26 of Defendants' illegal conduct.

27 33. Plaintiff Cristi Ferguson is a resident of Kansas who indirectly
28 purchased SRAM from one or more of the Defendants or their co-conspirators during the

1 Class Period, for end use and not for resale and primarily for personal, family, household,
2 business or agricultural purposes, and was injured as a result of Defendants' illegal conduct.

3 34. Plaintiff Patricia Fitzsimmons is a resident of Minnesota who indirectly
4 purchased SRAM from one or more of the Defendants or their co-conspirators during the
5 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
6 conduct.

7 35. Plaintiff Alicia Foley is a resident of Massachusetts who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
10 conduct. Pursuant to Mass. Gen. L. 93A, §9, Plaintiff mailed a written demand for relief to
11 Defendants at least 30 days prior to filing her initial complaint. No Defendant responded with
12 a reasonable tender of settlement.

13 36. Plaintiff Craig Friedson is a resident of the District of Columbia who
14 indirectly purchased SRAM in Maryland from one or more of the Defendants or their co-
15 conspirators during the Class Period, for end use and not for resale and primarily for personal,
16 household, or family use, and was injured as a result of Defendants' illegal conduct.

17 37. Plaintiff Scott Friedson is an resident of Arizona who indirectly
18 purchased SRAM from one or more of the Defendants or their co-conspirators during the
19 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
20 conduct.

21 38. Plaintiff Frank Gertzen is a resident of Pennsylvania who indirectly
22 purchased SRAM from one or more of the Defendants or their co-conspirators during the
23 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
24 conduct.

25 39. Plaintiff Jacob Greenwell is a resident of California who indirectly
26 purchased SRAM from one or more of the Defendants or their co-conspirators during the
27 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
28 conduct.

1 40. Plaintiff Janet Hall is a resident of Alaska who indirectly purchased
2 SRAM from one or more of the Defendants and their co-conspirators during the Class Period,
3 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

4 41. Plaintiffs Thomas and Donna Hark are residents of West Virginia who
5 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
6 during the Class Period, for end use and not for resale, and were injured as a result of
7 Defendants' illegal conduct.

8 42. Plaintiff Robert S. Harmon is a resident of Arkansas who indirectly
9 purchased SRAM from one or more of the Defendants or their co-conspirators during the
10 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
11 conduct.

12 43. Plaintiff Joseph Hastings is a resident of Mississippi who indirectly
13 purchased SRAM from one or more of the Defendants or their co-conspirators during the
14 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
15 conduct.

16 44. Plaintiff Heather Hawk is a resident of New Mexico who indirectly
17 purchased SRAM from one or more of the Defendants or their co-conspirators during the
18 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
19 conduct.

20 45. Plaintiff Kenneth W. Hebert is a resident of Idaho who indirectly
21 purchased SRAM from one or more of the Defendants or their co-conspirators during the
22 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
23 conduct.

24 46. Plaintiff Paul Hickman is a resident of Montana who indirectly
25 purchased SRAM from one or more of the Defendants or their co-conspirators during the
26 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
27 conduct.

28 47. Plaintiff Penny Hochstein is a South Dakota resident who indirectly

1 purchased SRAM from one or more of the Defendants or their co-conspirators during the
2 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
3 conduct.

4 48. Plaintiff Curtis Hogue is a resident of North Carolina who indirectly
5 purchased SRAM from one or more of the Defendants or their co-conspirators during the
6 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
7 conduct.

8 49. Plaintiff Rhonda L. Jacobs is a resident of West Virginia who indirectly
9 purchased SRAM from one or more of the Defendants or their co-conspirators during the
10 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
11 conduct.

12 50. Plaintiff Karl Johnson is a resident of West Virginia who indirectly
13 purchased SRAM from one or more of the Defendants or their co-conspirators during the
14 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
15 conduct.

16 51. Plaintiff Susan Juliffs is a resident of Iowa who indirectly purchased
17 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,
18 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

19 52. Plaintiff Karol Juskiewicz is a resident of California who indirectly
20 purchased SRAM from one or more of the Defendants or their co-conspirators during the
21 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
22 conduct.

23 53. Plaintiff Nicolas Kane is a resident of Wisconsin who indirectly
24 purchased SRAM from one or more of the Defendants or their co-conspirators during the
25 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
26 conduct.

27 54. Plaintiff Michael Katz is a resident of California who indirectly
28 purchased SRAM from one or more of the Defendants or their co-conspirators during the

1 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
2 conduct.

3 55. Plaintiff Allen Robert Kelley is a resident of Nevada who indirectly
4 purchased SRAM from one or more of the Defendants or their co-conspirators during the
5 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
6 conduct.

7 56. Plaintiff Kevin Kicia is a resident of Rhode Island who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale and was injured as a result of Defendants' illegal
10 conduct.

11 57. Plaintiff Chad Klebs is a resident of Minnesota who indirectly
12 purchased SRAM from one or more of the Defendants or their co-conspirators during the
13 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
14 conduct.

15 58. Plaintiff Sean Koch is a resident of California who indirectly purchased
16 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,
17 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

18 59. Plaintiff Henry Kornegay is a resident of Montana who indirectly
19 purchased SRAM from one or more of the Defendants or their co-conspirators during the
20 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
21 conduct.

22 60. Plaintiff Ronald A. Kramer is a resident of Maine who indirectly
23 purchased SRAM from one or more of the Defendants or their co-conspirators during the
24 Class Period, for end use and not for resale and primarily for personal, family, or household
25 purposes, and was injured as a result of Defendants' illegal conduct.

26 61. Plaintiff Mark Lambert is a resident of West Virginia who indirectly
27 purchased SRAM from one or more of the Defendants or their co-conspirators during the

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1 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
2 conduct.

3 62. Plaintiff Paul Luttamus is a resident of West Virginia who indirectly
4 purchased SRAM from one or more of the Defendants or their co-conspirators during the
5 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
6 conduct.

7 63. Plaintiff Alfred Livingston is a resident of Mississippi who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
10 conduct.

11 64. Plaintiff David Loomis is a resident of West Virginia who indirectly
12 purchased SRAM from one or more of the Defendants or their co-conspirators during the
13 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
14 conduct.

15 65. Plaintiff Stephanie Luekel is a resident of Massachusetts who indirectly
16 purchased SRAM from one or more of the Defendants or their co-conspirators during the
17 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
18 conduct. Pursuant to Mass. Gen. L. 93A, §9, Plaintiff mailed a written demand for relief to
19 Defendants at least 30 days prior to filing her initial complaint. No Defendant responded with
20 a reasonable tender of settlement.

21 66. Plaintiff Laura Magnuson is a resident of New York who indirectly
22 purchased SRAM from one or more of the Defendants or their co-conspirators during the
23 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
24 conduct.

25 67. Plaintiff Lawrence Markey is a resident of California who indirectly
26 purchased SRAM from one or more of the Defendants or their co-conspirators during the
27 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
28 conduct.

68. Plaintiff Terrence Martin is a resident of Michigan who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

69. Plaintiff Kym Masters, a California resident, indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

70. Plaintiff Mark Miles is a resident of Arkansas who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

71. Plaintiff Roman Muñoz is a resident of California who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

72. Plaintiff Allen Nassiff is a resident of Vermont who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

73. Plaintiff Jo Nash is a California resident who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

74. Plaintiff Blaine Olson is a Montana resident who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

75. Plaintiff Cade Oyadomori is a resident of Hawaii who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators during the Class Period, for end use and not for resale and primarily for personal, family, or household purposes, and was injured as a result of Defendants' illegal conduct. Pursuant to Hawaii Rev.

1 Stat. §480-13.3, Plaintiff filed his initial Complaint under seal and served a copy on Hawaii's
2 Attorney General within seven days. Following expiration of the statutory review period, the
3 Hawaii Attorney General informed the United States District Court for the District of Hawaii
4 that it would not proceed with the action or file its own action involving the same or similar
5 claims as set forth in Plaintiff's initial Complaint.

6 76. Plaintiff Jai Paguirigan is a resident of Wisconsin who indirectly
7 purchased SRAM from one or more of the Defendants or their co-conspirators during the
8 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
9 conduct.

10 77. Plaintiff David Perez is a resident of California who indirectly
11 purchased SRAM from one or more of the Defendants or their co-conspirators during the
12 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
13 conduct.

14 78. Plaintiff Suzanna Purdy is a resident of Nevada who indirectly
15 purchased SRAM from one or more of the Defendants or their co-conspirators during the
16 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
17 conduct.

18 79. Plaintiff Mark Pierce is a New Hampshire resident who indirectly
19 purchased SRAM from one or more of the Defendants or their co-conspirators during the
20 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
21 conduct.

22 80. Plaintiff Daniel Price is a resident of California who indirectly
23 purchased SRAM from one or more of the Defendants or their co-conspirators during the
24 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
25 conduct.

26 81. Plaintiff Greg Proiette is a resident of California who indirectly
27 purchased SRAM from one or more of the Defendants or their co-conspirators during the

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1 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
2 conduct.

3 82. Plaintiff Reclaim Center, Inc. is a Minnesota corporation that indirectly
4 purchased SRAM from one or more of the Defendants or their co-conspirators during the
5 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
6 conduct.

7 83. Plaintiff David Reedy is a resident of California who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
10 conduct.

11 84. Plaintiff Dan Rempe is a resident of Nebraska who indirectly purchased
12 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,
13 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

14 85. Plaintiff Richard Romero is a resident of New Mexico who indirectly
15 purchased SRAM from one or more of the Defendants or their co-conspirators during the
16 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
17 conduct.

18 86. Plaintiff Candace Rowlette is a resident of Florida who indirectly
19 purchased SRAM from one or more of the Defendants or their co-conspirators during the
20 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
21 conduct.

22 87. Plaintiff Frederick Roza is a resident of California who indirectly
23 purchased SRAM from one or more of the Defendants or their co-conspirators during the
24 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
25 conduct.

26 88. Plaintiffs Stacy Salzman and Mitchell Salzman are residents of Florida
27 who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators

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1 during the Class Period, for end use and not for resale, and were injured as a result of
2 Defendants' illegal conduct.

3 89. Plaintiffs Timothy Show and Nuja Show are residents of Arizona who
4 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
5 during the Class Period, for end use and not for resale, and were injured as a result of
6 Defendants' illegal conduct.

7 90. Plaintiff Jason Smith is a resident of Pennsylvania who indirectly
8 purchased SRAM from one or more of the Defendants or their co-conspirators during the
9 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
10 conduct.

11 91. Plaintiff Joe Solo is a resident of California who indirectly purchased
12 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,
13 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

14 92. Plaintiff Craig Sparks is a resident of Iowa who indirectly purchased
15 SRAM from one or more of the Defendants or their co-conspirators during the Class Period,
16 for end use and not for resale, and was injured as a result of Defendants' illegal conduct.

17 93. Plaintiff Stargate Films is a California corporation that indirectly
18 purchased SRAM from one or more of the Defendants or their co-conspirators during the
19 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
20 conduct.

21 94. Plaintiff Christopher J. Stawski is a resident of Wisconsin who
22 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
23 during the Class Period, for end use and not for resale, and was injured as a result of
24 Defendants' illegal conduct.

25 95. Plaintiff Lara Sterenberg is a resident of Arizona who indirectly
26 purchased SRAM from one or more of the Defendants or their co-conspirators during the
27 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
28 conduct.

1 96. Plaintiff David Takeda is a California resident who indirectly
2 purchased SRAM from one or more of the Defendants or their co-conspirators during the
3 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
4 conduct.

5 97. Plaintiff Don Thompson is a resident of California who indirectly
6 purchased SRAM from one or more of the Defendants or their co-conspirators during the
7 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
8 conduct.

9 98. Plaintiffs E. Carol Vinson and Robert Vinson are residents of Arizona
10 who indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
11 during the Class Period, for end use and not for resale, and were injured as a result of
12 Defendants' illegal conduct.

13 99. Plaintiff Robert Schulyer Watson is a resident of Vermont who
14 indirectly purchased SRAM from one or more of the Defendants or their co-conspirators
15 during the Class Period, for end use and not for resale, and was injured as a result of
16 Defendants' illegal conduct.

17 100. Plaintiff Daniel Yohalem is a resident of New Mexico who indirectly
18 purchased SRAM from one or more of the Defendants or their co-conspirators during the
19 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
20 conduct.

21 101. Plaintiff Rachael Zaas is a resident of Michigan who indirectly
22 purchased SRAM from one or more of the Defendants or their co-conspirators during the
23 Class Period, for end use and not for resale, and was injured as a result of Defendants' illegal
24 conduct.

25 **B. The Defendants.**

26 102. Defendant Samsung Electronics Company, Ltd. is a business entity
27 organized under the laws of South Korea, with its principal place of business at Samsung
28 Main Building 250-2 ga, Taepyung-ro Chung-gu, Seoul, Korea. During the time period

covered by this Complaint, Defendant Samsung Electronics Company, Ltd. manufactured, sold and distributed SRAM to customers throughout the United States.

103. Defendant Samsung Electronics America, Inc. is a wholly owned and controlled subsidiary of Defendant Samsung Electronic Company, Ltd. with its principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey. During the time period covered by this Complaint, Defendant Samsung Electronics America, Inc. sold SRAM to customers throughout the United States.

104. Defendant Samsung Semiconductor, Inc. is a wholly owned and controlled subsidiary of defendant Samsung Electronics Company, Ltd. with its principal place of business at 3655 North First Street, San Jose, California. During the time period covered by this Complaint, Defendant Samsung Semiconductor, Inc. sold and distributed SRAM to customers throughout the United States. Samsung Electronics Company, Ltd. and Samsung Semiconductor, Inc. are referred to collectively herein as “Samsung.”

105. Defendant Hynix Semiconductor, Inc. is a business entity organized under the laws of South Korea, with its principal place of business at SAN 136-1, Ami-Ri Bubal-eub, Ichon-si, Kyongki-do, Korea. During the time period covered by this Complaint, Defendant Hynix Semiconductor, Inc. manufactured, sold and distributed SRAM to customers throughout the United States.

106. Defendant Hynix Semiconductor America, Inc. is a wholly owned and controlled subsidiary of defendant Hynix Semiconductor, Inc. with its principal place of business at 3101 North First Street, San Jose, California. During the time period covered by this Complaint, Defendant Hynix Semiconductor America, Inc. sold and distributed SRAM to customers throughout the United States. Hynix Semiconductor, Inc. and Hynix Semiconductor America, Inc. are referred to collectively herein as “Hynix.”

107. Defendant Micron Technology, Inc. is a Delaware Corporation with its principal place of business at 8000 South Federal Way, Boise, Idaho. During the time period covered by this Complaint, Defendant Micron Technology, Inc. manufactured, sold and distributed SRAM throughout the United States.

1 108. Defendant Micron Semiconductor Products, Inc. is a wholly owned and
2 controlled subsidiary of defendant Micron Technology, Inc. with its principal place of
3 business at 8000 South Federal Way, Boise, Idaho. During the time period covered by this
4 Complaint, Defendant Micron Semiconductor Products, Inc. sold and distributed SRAM to
5 customers throughout the United States. Micron Technology, Inc. and Micron Semiconductor
6 Products, Inc. are referred to collectively herein as “Micron.”

7 109. Defendant NEC Electronics Corporation is a business entity organized
8 under the laws of Japan, with its principal place of business at 1753 Shimonumabe, Nakahara-
9 Ku, Kawasaki, Kanagawa, Japan. During the time period covered by this Complaint,
10 Defendant NEC Electronics Corporation sold SRAM to customers throughout the United
11 States.

12 110. Defendant NEC Electronics America, Inc. is a wholly owned and
13 controlled subsidiary of NEC Electronics Corporation, with its principal place of business at
14 2880 Scott Boulevard, Santa Clara, California and its manufacturing plant in Roseville,
15 California. During the time period covered by this Complaint, Defendant NEC Electronics
16 America, Inc. sold and distributed SRAM to customers throughout the United States

17 111. Defendant Cypress Semiconductor, Inc. is a business entity organized
18 under the laws of California, with its principal place of business at 3939 North First Street,
19 San Jose, California. During the time period covered by this Complaint, Defendant Cypress
20 Semiconductor, Inc. sold and distributed SRAM to customers throughout the United States.

21 112. Defendant Mitsubishi Electric Corporation is a business entity
22 organized under the laws of Japan, with its principal place of business at Tokyo Building 2-7-
23 3, Marunouchi, Chiyoda-ku, Tokyo 100-8310, Japan. During the time period covered by this
24 Complaint, Defendant Mitsubishi Electric Corporation, Inc. manufactured, sold and
25 distributed SRAM to customers throughout the United States.

26 113. Defendant Mitsubishi Electric & Electronics USA, Inc. is a wholly
27 owned and controlled subsidiary of defendant Mitsubishi Electric Corporation. Defendant
28 Mitsubishi Electric & Electronics USA, Inc. is a business entity organized under the laws of

1 Delaware, with its principal place of business at 500 Corporate Woods Parkway, Vernon
2 Hills, IL 60061. During the time period covered by this Complaint, Defendant Mitsubishi
3 Electric & Electronics USA, Inc. manufactured, sold and distributed SRAM to customers
4 throughout the United States. Mitsubishi Electric Corporation and Mitsubishi Electric &
5 Electronics USA, Inc. are referred to collectively herein as “Mitsubishi.”

6 114. Defendant Renesas Technology Corporation is a business entity
7 organized under the laws of Japan with its principal place of business at Nippon Bldg., 2-6-2,
8 Ote-machi, Chiyoda-ku, Tokyo 100-0004, Japan. Renesas Technology Corporation was
9 established in April 2003 as a joint venture between Defendants Hitachi, Ltd. and Mitsubishi
10 Electric Corp. During the time period covered by this Complaint, Defendant Renesas
11 Technology Corporation sold SRAM to customers throughout the United States.

12 115. Defendant Renesas Technology America, Inc. is a wholly owned and
13 controlled subsidiary of Renesas Technology Corporation with its principal place of business
14 at 450 Holger Way, San Jose, California, 95134-1368. During the time period covered by this
15 Complaint, Defendant Renesas Technology America, Inc. sold and distributed SRAM to
16 customers throughout the United States.

17 116. Defendant Toshiba Corporation is a business entity organized under the
18 laws of Japan, with its principal place of business at 1-1, Shibaura 1-chome, Minato-ku,
19 Tokyo 105-8001, Japan. During the time period covered by this Complaint, Defendant
20 Toshiba Corporation manufactured, sold and distributed SRAM to customers throughout the
21 United States.

22 117. Defendant Toshiba America, Inc. is a wholly owned and controlled
23 subsidiary of Toshiba Corporation with its principal place of business at 1251 Avenue of the
24 Americas, Suite 4110 New York, NY 10020. During the time period covered by this
25 Complaint, Defendant Toshiba America, Inc. manufactured, sold and distributed SRAM to
26 customers throughout the United States.

27 118. Defendant Etron Technology America, Inc. is a wholly owned and
28 controlled subsidiary of Etron Technogy, Inc. with its principal place of business at 3375

1 Scott Blvd., Suite 128, Santa Clara, California. During the time period covered by this
2 Complaint, Defendant Etron Technology America, Inc. sold SRAM to customers throughout
3 the United States.

4 119. Defendant Toshiba America Electronic Components, Inc. is a wholly
5 owned and controlled subsidiary of Toshiba Corporation with its principal place of business
6 located at 19900 MacArthur Boulevard, Suite 400, Irvine, CA 92612. During the time
7 covered by this Complaint, Defendant Toshiba America Electronic Components, Inc. sold and
8 distributed SRAM to customers throughout the United States. Toshiba Corporation, Toshiba
9 America Corporation, and Toshiba America Electronic Components, Inc. are referred to
10 collectively herein as "Toshiba."

11 120. Each of the Defendants named herein acted as the agent or joint
12 venturer of or for the other Defendants with respect to the acts, violations and common course
13 of conduct alleged herein. Each Defendant which is a subsidiary of a foreign parent acts as
14 the sole United States agent for SRAM made by its parent company.

15 **C. Co-Conspirators.**

16 121. Various other firms, corporations, partnerships and/or individuals,
17 domestic and/or foreign, who are presently unknown to Plaintiffs, participated as co-
18 conspirators with the Defendants in the violations of law alleged in this Complaint and have
19 engaged in conduct and made statements in furtherance thereof.

20 122. The acts charged in this Complaint have been done by some or all of
21 Defendants and their co-conspirators, or were authorized, ordered or done by their respective
22 officers, agents, employees or representatives while actively engaged in the management of
23 each Defendant's business or affairs.

24 123. Defendants are also liable for acts done in furtherance of the alleged
25 conspiracy by companies they acquired through merger or acquisition.

26 **EFFECTS ON INTERSTATE AND INTRASTATE COMMERCE**

27 124. Defendants conduct business throughout the United States, including in
28 the State of California, and they have purposefully availed themselves of the laws of the

1 United States. Defendants' products are sold in the flow of interstate commerce and
2 Defendants' activities had a direct, substantial and reasonably foreseeable effect on such
3 commerce.

4 125. Defendants' conspiracy further substantially affected commerce in each
5 of the states identified herein. Defendants have purposefully availed themselves of the laws
6 of each of the states identified herein in connection with their activities relating to the pricing
7 of SRAM. Defendants produced, promoted, sold, marketed, and/or distributed SRAM in each
8 of the states identified herein, thereby purposefully profiting from access to indirect
9 purchasers in each such state. As a result of the activities described herein, Defendants:

- 10 a. Caused tortious damage to the residents of the states identified herein;
- 11 b. Caused tortious damage in each of the states identified herein by acts or
12 omissions committed outside each such state by regularly doing or
13 soliciting business in each such state;
- 14 c. Engaged in persistent courses of conduct within each such state and/or
15 derived substantial revenue from the marketing of SRAM in each such
16 state (and services relating to such marketing); and
- 17 d. Committed acts or omissions that they knew or should have known
18 would cause damage (and did, in fact, cause such damage) in each such
19 state while regularly doing or soliciting business in each such state,
20 engaging in other persistent courses of conduct in each such state
21 and/or deriving substantial revenue from the marketing of SRAM (and
22 services relating to such marketing) in each such state.

23 126. The conspiracy described herein affected adversely every person in
24 each of the states identified in this Complaint who indirectly bought SRAM for end use and
25 not for resale. Defendants' conspiracy has lasted for many years and resulted in monetary
26 damages to purchasers in each state identified herein.

27 127. Prices of SRAM in each state can be manipulated by conspirators
28 within that state, outside of it, or both. Without enforcing the antitrust and/or consumer

1 protection laws of each of the states identified herein, companies that break the law will go
2 unpunished. Defendants knew that commerce in each of the states identified herein would
3 have to be adversely affected in order to implement their conspiracy.

4 **CLASS ACTION ALLEGATIONS**

5 128. Plaintiffs bring this suit as a class action pursuant to Rules 23(b)(2) and
6 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and a Plaintiff Class
7 ("the Class") composed of and defined as follows:

8 All persons and entities residing in the United States who, from
9 November 1, 1996 through at least December 31, 2006, purchased
10 SRAM in the United States indirectly from the Defendants for their
11 own use and not for resale. Specifically excluded from this Class are
12 the Defendants; the officers, directors or employees of any Defendant;
13 any entity in which any Defendant has a controlling interest; and any
14 affiliate, legal representative, heir or assign of any Defendant. Also
15 excluded are any federal, state or local governmental entities, any
16 judicial officer presiding over this action and the members of his/her
17 immediate family and judicial staff, and any juror assigned to this
18 action.

19 129. This action has been brought and may be properly maintained as a class
20 action pursuant to Rule 23 of the Federal Rules of Civil Procedure for the following reasons:

- 21 a. The Class is ascertainable and there is a well-defined community of
22 interest among the members of the Class;
- 23 b. Based upon the nature of the trade and commerce involved and the
24 number of indirect purchasers of SRAM, Plaintiffs believe that the
25 members of the Class number in the thousands, and therefore is
26 sufficiently numerous that joinder of all Class members is not
27 practicable;
- 28 c. Plaintiffs' claims are typical of the claims of the members of the Class
because Plaintiffs indirectly purchased SRAM from one or more of the
Defendants or their co-conspirators, and therefore Plaintiffs' claims
arise from the same common course of conduct giving rise to the
claims of the members of the Class and the relief sought is common to
the Class,

- d. The following common questions of law or fact, among others, exist as to the members of the Class.
- i. whether Defendants formed and operated a combination or conspiracy to fix, raise, maintain or stabilize the prices of, or allocate the market for, SRAM;
 - ii. whether the combination or conspiracy caused SRAM prices to be higher than they would have been in the absence of Defendants' conduct;
 - iii. the operative time period of Defendants' combination or conspiracy;
 - iv. whether Defendants' conduct caused injury to the business or property of Plaintiffs and the members of the Class;
 - v. the appropriate measure of the amount of damages suffered by the Class;
 - vi. whether Defendants' conduct violates Section 1 of the Sherman Act;
 - vii. whether Defendants' conduct violates Sections 16720 and 17200 of the California Business and Professions Code;
 - viii. whether Defendants' conduct violates the antitrust, unfair competition, and consumer protection laws of the other states as alleged below; and
 - ix. the appropriate nature of class-wide equitable relief.
- e. These and other questions of law or fact which are common to the members of the Class predominate over any questions affecting only individual members of the Class;
- f. After determination of the predominate common issues identified above, if necessary or appropriate, the Class can be divided into logical and manageable subclasses;

- 1 g. Plaintiffs will fairly and adequately protect the interests of the Class in
2 that Plaintiffs have no interests that are antagonistic to other members
3 of the Class and have retained counsel competent and experienced in
4 the prosecution of class actions and antitrust litigation to represent
5 themselves and the Class;
- 6 h. A class action is superior to other available methods for the fair and
7 efficient adjudication of this litigation since individual joinder of all
8 damaged Class Members is impractical; the damages suffered by
9 individual Class Members are relatively small, thus, absent the
10 availability of class action procedures, it would not be feasible for
11 Class Members to redress the wrongs done to them;
- 12 i. Defendants have acted, and refused to act, on grounds generally
13 applicable to the Class, thereby making appropriate final injunctive
14 relief with respect to the Class as a whole; and
- 15 j. In the absence of a class action, Defendants would be unjustly enriched
16 because they would be able to retain the benefits and fruits of their
17 wrongful conduct.

18 130. The Claims in this case are also properly certifiable under the laws of
19 the State of California, and of the other individual states identified below in the Fourth and
20 Fifth Claims for Relief.

21 **NATURE OF THE MARKET**

22 131. Throughout the period of time covered by this Complaint, Defendants
23 and their co-conspirators engaged in the business of manufacturing, marketing and selling
24 SRAM throughout the United States. The sale of SRAM constituted a multi-billion dollar
25 business on an annual basis. For example, worldwide SRAM sales were estimated at
26 approximately \$3.3 billion in 2003, and at approximately \$4.1 billion in 2004, 50% of which
27 were in the United States.

28 132. In 1998, the top six manufacturers accounted for approximately 63% of

1 SRAM sales, and the top nine manufacturers accounted for approximately 79% of such sales.
2 In both 2003 and 2004, the top six manufacturers accounted for approximately 75% of SRAM
3 sales; the top eight manufacturers accounted for approximately 82% of SRAM sales. In 2004,
4 the top nine manufacturers sold approximately 84% of all SRAM. The Defendants are the
5 largest manufacturers and sellers of SRAM in the United States.

6 133. The shares of the leading SRAM manufacturers in 2003 were as
7 follows: Samsung: 32.5%; Renesas 15.0%; Cypress 11.6%; Toshiba 7.9%; NEC 7.2%;
8 Hynix 3.7%.

9 134. The SRAM industry has been subject to consolidation during the Class
10 Period. For example, on December 26, 2002, Hitachi, Ltd. and Mitsubishi Electric
11 Corporation announced an agreement to combine their semiconductor operations into a new
12 company, Renesas Technology Corp., by April 1, 2003. In the Spring of 2003, Micron
13 announced that it was exiting the SRAM market and agreed to sell its synchronous SRAM
14 product inventory to Cypress.

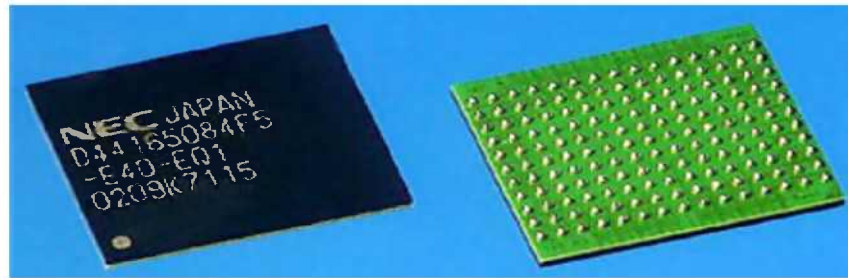
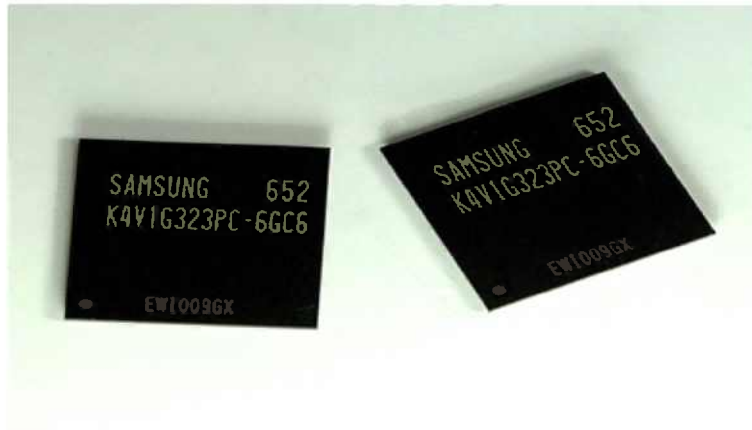
15 135. Defendants operate manufacturing factories called fabrication plants or
16 “fabs.” These fabrication plants make “wafers” that are cut into individual chips, called
17 “dies.” Once the dies have electronics printed on them, the chip is complete.

18 136. SRAM has no free-standing use; it must be inserted into a device, such
19 as a computer, to serve any function. Because SRAM has no independent utility, the value of,
20 and thus demand for, SRAM is derived through its storage capabilities for products that need
21 volatile memory.

22 137. SRAM is a commodity, with commodity margins. The SRAM market
23 is characterized by price inelasticity. In fact, Defendants refer to “commodity SRAM” to
24 mean a common memory type of SRAM.

25 138. When SRAM is purchased by consumers as part of an electronic
26 device, it is a distinct, physically-discrete, hardware element of the end-use product and is
27 traceable throughout the chain of distribution to the end user. SRAM does not undergo any
28 alterations in its moves through the chain of distribution. SRAM is identifiable by a part

number, and bears a unique serial number that would permit tracing. Manufacturers such as Cypress, Hynix, Micron, NEC, Renesas, Samsung, and Toshiba manufacture SRAM that is clearly identifiable by a specific, discrete part or model number, and that bears a unique serial number that is directly traceable to the specific manufacturing defendant. Photos of samples of SRAM from Samsung, NEC and Micron are depicted below.



139. The SRAM manufacturing market is dominated by a handful of leading manufacturers – the Defendants in this case. The market for the manufacture and sale of SRAM is subject to high manufacturing and technological barriers to entry. Efficient fabrication plants are large and costly.

1 140. Defendants' direct-purchaser customers include the world's largest
2 computer manufacturers, such as Hewlett Packard, IBM, Apple, Dell and Sun Microsystems;
3 microprocessor manufacturers, such as Intel; computer equipment manufacturers such as
4 Cisco; and cellular phone manufacturers such as Motorola and Ericsson.

5 141. During the Class Period, the markets for the manufacture of the end-use
6 products in which SRAM is incorporated were subject to vigorous price competition. The
7 SRAM and end-use markets are therefore inextricably linked, and cannot be considered
8 separately. Participants in the SRAM industry were well aware of this intimate relationship,
9 and utilized end-use industry forecasts to predict sales of their own products.

10 142. The end-use industries were all subject to vigorous price competition
11 during the Class Period. The SRAM direct purchasers had very thin net margins. They were
12 therefore at the mercy of their component costs, so that increases in component costs, such as
13 the price of SRAM, lead to quick, corresponding price increases in the end-use products.

14 143. SRAM is a significant cost component of end-use electronic products
15 using memory chips. Because of the thin margins for those products, the original equipment
16 manufacturers ("OEM") could not absorb any part of the increased cost of SRAM.

17 144. The cost of memory chips, including SRAM, to direct-purchaser OEMs
18 is an important component in the selling price of that OEM's electronic products. If the cost
19 that an OEM pays for SRAM increases, that directly affects the prices of the products sold by
20 the OEM.

21 145. As the market for computers, system servers, and other electronic
22 devices was highly competitive during the Class Period, whenever an OEM paid more for
23 memory chips, including SRAM, that OEM passed on 100% of that increased cost to its
24 customers, who, in turn, passed on at least 100% of the increased SRAM costs to the end-user
25 consumer.

26 146. Beginning in 1998 and continuing through much of 2001, SRAM
27 prices rose, due to the effects of the industry-wide collusion alleged herein and which is being
28 investigated by the DOJ. During 2000 alone, the average selling price of SRAM in the United

1 States increased by 35%—from \$3.93 in 1999 to approximately \$5.31 in 2000. SRAM prices
2 experienced an increase in 2002, and again in 2003 and subsequent years, which was the
3 result of the Defendants' and their co-conspirators' price-fixing conspiracy.

4 147. California is the largest market in the world for SRAM and is the
5 world-wide center of the computer industry and other industries that depend upon the SRAM
6 markets. Statements concerning the prices and market conditions for SRAM were
7 disseminated by Defendants from and into California on a regular and continuous basis.

8 **DEFENDANTS' ILLEGAL CONDUCT**

9 148. In October of 2006, the DOJ subpoenaed several companies in
10 connection with an investigation of cartel activity in the SRAM industry, which included:
11 Samsung, Cypress, Hynix, Micron, Mitsubishi, NEC, Renesas, and Toshiba. Several of the
12 companies being investigated—Hynix, Micron and Samsung—pled guilty to price-fixing in
13 the DRAM industry and paid substantial fines to the DOJ for those unlawful activities (\$300
14 million for Samsung and \$185 million for Hynix). Micron, another major SRAM
15 manufacturer, was the amnesty applicant in the DRAM price-fixing investigation and paid a
16 substantial fine.

17 149. The DOJ's SRAM investigation is a criminal one. This fact is
18 significant because, according to Chapter III, Section C.5 of the DOJ's Antitrust Division
19 Manual, "[c]urrent Division policy is to proceed by criminal investigation and prosecution in
20 cases involving horizontal, per se unlawful agreements such as price-fixing, bid rigging and
21 horizontal customer and territorial allocations."

22 150. Several of the individuals employed by Defendants who pled guilty to
23 criminal felonies in the DRAM criminal case investigation also had pricing responsibility for
24 SRAM. For Defendant Samsung, these include: (1) Tom Quinn, Vice-President of
25 Marketing for Memory Products; (2) Y. H. Park, Vice-President of Sales who had
26 responsibility for U.S. memory pricing; and (3) I. U. Kim, Vice-President of Marketing.
27 Those from Defendant Hynix who pled guilty to felony price-fixing violations in DRAM and
28 who also had responsibility for SRAM pricing included its Senior Vice President and General

1 Manager of Worldwide Sales and Marketing, D.S. Kim; its Director of Global Strategic
2 Accounts, C.K. Chung; and its Senior Manager and Vice President for Product Marketing and
3 Vice President for Operations, C.Y. Choi.

4 151. Beginning at a date unknown to the Plaintiffs, but at least as early as
5 November 1, 1996, and continuing thereafter to at least October 15, 2006, Defendants and
6 their co-conspirators engaged in a contract, combination, or conspiracy, the effect of which
7 was to raise the prices at which they sold SRAM to artificially-inflated and supra-competitive
8 levels.

9 152. Defendants, through their officers, directors and employees, effectuated
10 the aforesaid contract, combination, or conspiracy between themselves and their co-
11 conspirators by, among other things:

- 12 a. participating in meetings and conversations, including through various
13 trade associations consortiums, and working groups, to discuss the
14 prices of SRAM in the United States;
- 15 b. agreeing, during those meetings and conversations, to charge prices at
16 specified levels and otherwise to increase and maintain prices of
17 SRAM sold in the United States;
- 18 c. issuing price announcements and quotations in accordance with the
19 agreements reached; and
- 20 d. selling SRAM in the United States at non-competitive prices.

21 153. In furtherance of this conspiracy to fix prices, the SRAM manufacturers
22 engaged in a systematic and continuous exchange of confidential pricing, quantity and other
23 business information. Defendants and their co-conspirators communicated extensively with
24 one another to discuss and exchange information about SRAM, including the market and
25 prices for SRAM in general, as well as related to specific OEMs.

26 154. Throughout the class period, representatives of the defendants
27 communicated personally or over the telephone or in writing in the United States to discuss
28 SRAM business, including SRAM pricing. Such communications occurred in or about:

1 March 1997; May 1998; December 1998; August 1999; October 1999; November 1999;
2 December 1999; March 2000; April 2000; July 2000; August 2000; October 2000; November
3 2000; March 2001; April 2001; May 2001; June 2001; July 2001; October 2001; November
4 2001; January 2002; February 2002; March 2002; April 2002; June 2002; July 2002;
5 November 2002; February 2003; April 2003; May 2003; June 2003; July 2003; December
6 2003; during 2004 (the exact months being unknown to Plaintiffs) and September 2005.

7 155. More specifically, representatives of one or more Defendants
8 communicated on the following dates about the subjects stated:

- 9 a. Ken Yap of Samsung had direct contact with Cypress. In a May 1998
10 email to his colleague, he asked, "I wonder if you have a wish list as we
11 discussed in the previous meeting. I'll have lunch with my buddy at
12 Cypress on Thursday." Il Ung Kim responds, "I am open to talk about
13 anything related to SRAM business. One curious topic could be mini-
14 BGA cost, capacity and ramp-up plan."
- 15 b. In September 1999, CK Chung sent an e-mail to Gary Swanson and
16 others at Hynix regarding October pricing for Strategic Accounts and
17 stated that he had "chatted with Samsung guys this morning" and
18 learned about Samsung's memory prices to certain OEMs. Regarding
19 the price increases contemplated by the e-mail, he says, "Hopefully
20 [sic] this price increases have our strategic customers reduce their
21 purchases, we can move more products in the spot, spot market price
22 down reducing the gap with contract price, etc, etc. Let's hope the
23 best."
- 24 c. John Bugee of Samsung had direct contact with Cypress as well. He
25 sent an e-mail to his colleagues in October 1999 which contained
26 LPSRAM pricing to Intel he received from Cypress. He spoke to
27 Cypress again and in March 13, 2000 reported on information,
28 including pricing, he learned when he "spoke to Cypress today

1 regarding their LPSRAM program with Intel.” He spoke to Cypress
2 again on April 28, 2000 and reported that he “encouraged Cypress to
3 significantly increase (not decrease) their price” to Intel. Bugee also
4 shared pricing information he received concerning Micron, NEC, and
5 Toshiba. Mr. Bugee again spoke to Cypress on October 2, 1999
6 regarding pricing to Intel, and reported back to Samsung that Cypress
7 “[c]urrent pricing is in the \$6.00 range.” On October 21, 1999, Mr.
8 Bugee again spoke to Cypress, and reported to Samsung that “Cypress
9 has quoted Y2K pricing of: 2M: Presently very low \$3.00 range, and
10 sub-\$2.00 in Q400. 4M: \$6.00.” Mr. Bugee further reported that
11 “Cypress acknowledged that the market is tightening, and that
12 customers are requesting upsides. This might cause them to re-adjust
13 their forward pricing upwards, as well as continue to minimize capacity
14 commitments to Intel.” Bugee also spoke directly to Cypress in August
15 2000 about prices to Intel and others. His direct communications
16 continued into 2001. In March 2001, HD Park asked Bugee and Steve
17 Wienger to let him know how much the competition sold in January
18 and February since they had “whole competition information.”

19 d. In November 1999, a new Samsung employee traveled to the United
20 States and met with representatives of Micron and Cypress. J.H. Ko,
21 wrote that he met to discuss the Sync SRAM market.”

22 e. Bugee spoke directly to his contacts at Etron in December 1999
23 regarding LPSRAM pricing. He spoke to his contacts again in July
24 2000, when he e-mailed, “I spoke to Etron this morning. I am pleased
25 to report the following ...” and provided intelligence about Etron’s
26 LPSRAM products and pricing to Intel. Bugee spoke again to his
27 contact at Etron in October of that year. Bugee spoke to his Etron
28 contact in November 2000, regarding among other things, prices to

1 Intel. Based on the information he received directly from Etron about
2 pricing to Intel, he suggests that the Etron “price” that Intel will try to
3 use to get Samsung to move its price is meaningless and that Samsung
4 should stay firm at its higher price. Bugee’s communications continued
5 to 2001. In addition, Woung Moo Lee, Senior Manager, Worldwide
6 SRAM Marketing, also had direct communications with Etron
7 regarding pricing.

8 f. In July 2000, Bagbee of Samsung sent around competitive information.
9 Upon receiving it, his colleague, H.D. Park, Manager SRAM
10 Marketing, replied, “can we share this kind of competitive info, with
11 price info, once per month at least!!!”

12 g. Mike Black of Micron Marketing had good friends at all of Micron’s
13 so-called competitors. For example, in May 2001, Micron was looking
14 for information on Samsung and Cypress’ datasheets for various
15 SRAM. Mike Black was asked to get some information by Tom
16 Pawlowski, another Micron employee. Another of Black’s co-workers
17 reported that Black was “pinging his contacts for information” but it
18 was not being received quickly enough for Pawlowski, who directed
19 Black to “please get the Cypress and Samsung info directly from our
20 contacts there? Looks like this is a real hot potato now.” On October
21 26, 2001, Micron’s Black reported to Micron and David Carr of Silicon
22 Access regarding discussions with Samsung, and wrote that “[m]y
23 conversations with them would put their road map similar to ours.
24 Pricing for 18M parts out in 2004 around \$20 for a 400MHz and in
25 2005 would move to \$15 range...” [ellipsis in original].

26 h. On June 15, 2001, Hee Sang Yoon, a Hynix employee in charge of
27 SRAM Strategic Marketing, sent an e-mail to SRAM Manufacturers,
28 including among others, Micron, suggesting that they meet for an

1 “SRAM Manufacturer Meeting” on a regular basis. Hynix states that
2 “suppliers can control the market situation if they have accurate
3 information on customer and market demand in general.” According to
4 Hynix, it “would be a golden opportunity for us (SRAM vendors) since
5 we could discuss how we could manage the ever changing market
6 situation by exchanging our views on Today’s SRAM Market.” The
7 proposed meeting agenda included: SRAM Market Analysis by
8 Application, Sales Performance and Forecast, Production Volume by
9 Density, world wide supply forecasts by manufacturer and product
10 roadmaps.

11 i. Tom Pawlowski of Micron sent a Hynix e-mail to Jerry Johnson and
12 Mike Black with the following note. “Hmmm. Interesting”, Black’s
13 response to the request to have an official meeting to discuss SRAM
14 prices was “Wow”.

15 j. Tom Pawlowski must have replied to Yoon at Hynix, who sent
16 Pawlowski an e-mail on June 25, 2001, “I think we can make good time
17 to get suppliers’ status which you wanted it. In my mind, someone
18 who is in charge of marketing, they need two information one is
19 demand forecast and the other one is supplier forecast. . .” He suggests
20 that Hynix can get “a lot of demand information” and proposes a
21 private SRAM meeting between the two companies. The next day,
22 June 26, Pawlowski responds to Hee Sang suggesting that he contact
23 Mike Black. On June 27, 2001, Micron’s Black confirmed to Hynix’
24 Yoon that “I would like to have an opportunity to meet with you and
25 discuss this SRAM market.” That same day, Yoon wrote back and
26 suggested that they meet in Korea.

27 ///

28 ///

k. In October 2001, J. M. Sung of Hynix met with a Cypress employee, Mario Martinez in California about “SRAM product development & Market.”

l. Similarly, Mike Black sent an email in January 2002 to Jerry Johnson of Micron containing information that he had received on Samsung’s worldwide synchronous SRAM sales and promised to send the Cypress data and GSI information “when they get back from Japan ...” Jerry Johnson asked Black to put the information into a chart and Black replied, “I will, but I want to wait until my Samsung buddy gets back, he has the numbers for everybody!”

m. On January 17, 2002, Mike Black (Micron Marketing) provided detailed information regarding Samsung’s “worldwide sync SRAM sales” to Jerry Nalywajko (Micron Tactical Marketing Mgr.) and other Micron employees.

n. Jack Truong of Samsung wrote to Mark D’Arcangelo, Product Marketing Manager for SRAM at Hitachi, in February 2002 providing Samsung’s SRAM revenue numbers for low power, async fast and sync, and asking for Hitachi’s revenue numbers. In response, D’Arcangelo asked why Samsung’s async number was down from previous month and the sync number doubled and Truong provided an explanation involving who the buyer was and other information. D’Arcangelo responded with Hitachi’s numbers, and again asked Truong about the Samsung numbers. Truong provided additional explanations. They also asked one another about exchanging the competitors’ latest roadmaps, which, they both did. On June 18, 2002, Hitachi’s D’Arcangelo emailed Hitachi’s “SRAM numbers” to Truong as follows: “Low Power: \$435k Async: \$628k Sync: \$17k * Sun problem.” On September 6, 2002, Hitachi’s Toshihiko Seki wrote to

1 Samsung's Truong regarding Low Power SRAM, and asked "Are you
2 able to share with me some of the low power SRAM revenue number?"
3 and "Can you share some data?" and shared that "we do roughly
4 7M\$/mo in worldwide right now and wafer business is about 2M\$. . . "

5 o. David Bagby, Samsung's Director of SRAM Sales, had lunch with "the
6 NEC America guys" in March 2002 regarding, among other things, the
7 SRAM prices to Intel. Bagby provided "key" information from the
8 lunch to his colleague Woung Moo Lee (Senior Manager, Worldwide
9 SRAM and MCP Marketing, Semiconductor Sales Division, Samsung
10 Electronics Company, Ltd.), who thanked him for the "valuable"
11 information. After his conversation with the "NEC guys," Bagby was
12 able to tell Lee that with respect to 2M low power SRAM, "I think we
13 have a chance to raise this price come April 1. My feeling [is] a small
14 increase will trigger the thought that maybe things will get tight and
15 they better be careful." NEC also reported to Bagby in that
16 conversation that NEC had excess 4M low power SRAM that Intel did
17 not want, and the parties discussed the TAM. Bagby concluded "Keep
18 price at \$1.80." On April 17, 2002, Samsung's Bagby wrote to
19 Takahiro Kambe of Hitachi and stated "I would like to give you WW
20 [world-wide] data on SRAM from all competitors would you like that."

21 p. In April 2002, Micron's Jerry Nalywajko sent an e-mail around Micron
22 with SRAM competitor ASP ("average selling price") and other data as
23 well as data on the low power SRAM market. He told his colleagues
24 that while the data seemed reliable, "Mike Black will double ck on this
25 with his sources."

26 q. In July 2002, Black reached out to Mike Pearson at Samsung to see
27 whether Samsung would answer a number of questions about its
28 SRAM manufacturing processes and told Pearson that "this may seem

1 too sensitive, but we would be willing to exchange this level of
2 information.” At first, Samsung “politely decline[d] ... [the] offer to
3 share data” but two days later had a “change of heart” and let Black
4 know that he would have his competitor’s sensitive data in a few days.

5 r. In a November 21, 2002 e-mail to Jan Dupreez (Micron), Mike Black
6 (Micron) provided comparative SSRAM specifications for Micron’s
7 top two competitors, Samsung and Cypress.

8 s. In February 2003, Truong (Samsung) sent an e-mail to Goto at NEC
9 thanking him for their conversation and attaching PSRAM roadmaps.
10 Goto responded in kind with NEC’s latest roadmaps. Both asked the
11 other to keep the information confidential. On May 1, 2003,
12 Samsung’s Truong asked NEC’s Goto “Would you like to exchange
13 sync SRAM & Low power SRAM presentation between NEC and
14 Samsung,” and NEC’s Goto responded that same day that “I have
15 absolutely no problem to exchange an [updated] roadmap ...”

16 t. Samsung’s Jack Truong met with Rob Sloan of Cypress on June 11,
17 2003 regarding SRAM. After that meeting, Sloan sent an e-mail to
18 Truong attaching Cypress’s current SRAM presentation and requesting
19 that Truong forward Samsung’s to him.

20 u. In September 2005, Y. S. Lee of Samsung wrote to Hiroyuki Goto of
21 NEC and Clint Min of Renesas following up on their conversation
22 during a “cigarette break” at a trade association meeting earlier in the
23 day, and seeking a private dinner to discuss QDR II (SRAM). The
24 dinner was set up for September 23, 2005. Before the dinner, Goto of
25 NEC e-mailed his colleague at NEC to see what specific information
26 was needed from Renesas, “I am having informal dinner with John and
27 Clint tonight. Is there anything you want me to hear from them?” S. J.
28 Han of NEC asked Goto to get some information about Samsung and

1 Renesas SRAM QDR II+ and S3 and “run rates.”

2 156. In addition to the communications listed above, defendant met various
3 trade associations at which meetings they discussed SRAM pricing with the purpose and
4 effect of raising, fixing and stabilizing SRAM prices. Such meetings occurred at the
5 following trade associations:

- 6 a. Joint Electron Device Engineering Council Solid State Technology
7 Association (“JEDEC”);
8 b. Quad Data Rate Consortium (“QDRC”);
9 c. SigmaRAM Consortium (“SigmaRAM”);
10 d. Common Specifications for Mobile RAM Group (“COSMORAM”);
11 e. CellularRAM Working Group (“CWG”);
12 f. Die Products Consortium (“DPC”);
13 g. Multi-Chip Package Consortium (“MCP”);
14 h. Council on Computing Power (“CoCP”); and
15 i. MultiMediaCard Association (“MMCA”).

16 157. The conduct of the “business” of these organizations gave Defendants
17 and their co-conspirators the cover needed to contact one another with impunity and to
18 communicate competitive information, including SRAM pricing. For example, after a QDRC
19 meeting in 2001, as the Defendants began to exchange competitive information, including
20 pricing information, they designated the documents “QDR” as opposed to specific company
21 names, in order to hide the identity of the company providing that information so that their
22 price-fixing activities would not disclose the participants. These “consortium” meetings
23 often led to separate and more private meetings at which SRAM prices and markets were
24 discussed. This is exemplified by an e-mail sent by NEC to Micron seeking “the opportunity
25 to shoot the breeze with you guys outside of the [February 8, 2002] consortium meeting.”

26 158. In a January 11, 2001 e-mail regarding the provision of pricing
27 information on QDRC presentation materials, Jerry Johnson (Micron) states “now that we’ve
28 beaten Sigma the pricing is going up.”

1 159. Defendants' contract, combination, or conspiracy was centered in,
2 carried out, effectuated and perfected mainly in the State of California. Therefore, all
3 members of the Class, whether or not California residents, are entitled to recover under
4 California law, as well as the laws of their own states.

5 **ACTIVE CONCEALMENT**

6 160. Throughout and beyond the conspiracy, Defendants and their co-
7 conspirators affirmatively and actively concealed their unlawful conduct from Plaintiffs.
8 Defendants and their co-conspirators conducted their conspiracy in secret and kept it mostly
9 within the confines of their higher-level executives. Defendants and their co-conspirators
10 publicly provided pre-textual and false justifications regarding their price increases.
11 Defendants and their co-conspirators conducted their conspiracy in secret, concealed the true
12 nature of their unlawful conduct and acts in furtherance thereof, and actively concealed their
13 activities through various other means and methods to avoid detection. Plaintiffs did not
14 discover, and could not have discovered through the exercise of reasonable diligence, that
15 Defendants and their co-conspirators were violating the antitrust laws as alleged herein until
16 shortly before this class action litigation was commenced.

17 161. As a result of the active concealment of the conspiracy by Defendants
18 and their co-conspirators, any and all applicable statutes of limitations otherwise applicable to
19 the allegations herein have been tolled.

20 **PLAINTIFFS' INJURIES**

21 162. Plaintiffs and the Class members as defined below have been damaged
22 as a direct, foreseeable, and proximate result of Defendants' misconduct. Plaintiffs and the
23 Class members participate in the market for the sale of SRAM. To the extent Plaintiffs and
24 Class members purchase SRAM as part of a computer or other equipment purchase,
25 Defendants' unlawful conspiracy and unfair, deceptive and unconscionable practices have
26 caused the prices at which OEMs sell such SRAM to increase to supra-competitive levels.

27 163. Defendants have extinguished the market forces of competition to their
28 mutual benefit. Consumers, including Plaintiffs and Class members, are injured by paying

1 supra-competitive prices for SRAM.

2 164. Because Defendants control the market for SRAM, there are virtually
3 no choices for consumers who require such a memory product other than buying one from
4 entities that pay supra-competitive prices to Defendants because of Defendants' unlawful
5 agreement alleged herein.

6 165. The market for SRAM and the markets for Computers and mobile
7 phones are intertwined because the SRAM market exists to serve the Computer and mobile
8 phone markets. SRAM and Computer and mobile phone markets are united in that one
9 cannot exist without the other.

10 166. The conspiratorial conduct of the Defendants and their co-conspirators,
11 the purpose of which is to raise the price of SRAM, would, on information and belief, directly
12 increase the price of the Computers and mobile telecommunications devices. Where as here,
13 there are few products whose price is dependent on only one factor or variable, economists
14 have developed techniques to isolate and understand the relationship between one
15 "explanatory" variable and a "dependent" variable in those cases when the dependent variable
16 is explained by a multitude of variables—when all such variables may be changing
17 simultaneously. That analysis—called regression analysis—is commonly used in the real
18 world and in litigation to determine the impact of a price increase on one cost in a product (or
19 service) that is an assemblage of costs. Thus, it will be possible to isolate and identify the
20 impact of increases in the price of SRAM on computer and mobile telecommunication
21 equipment prices even though these products contain a numbers of other components whose
22 prices may be changing over time.

23 167. During the Class Period, Plaintiffs and the Class Members paid supra-
24 competitive prices for SRAM. These inflated prices have been passed on to them by
25 manufacturers, distributors, and retailers. Those overcharges have unjustly enriched
26 Defendants.

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VIOLATIONS ALLEGED

First Claim for Relief

(Violation of Section 1 of the Sherman Act)

168. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

169. Beginning at a time presently unknown to Plaintiffs, but at least as early as January 1, 1998 and continuing through at least October 15, 2006, the exact dates being unknown to Plaintiffs, Defendants and their co-conspirators entered into a continuing agreement, understanding, and conspiracy in restraint of trade to artificially raise, fix, maintain, and/or stabilize prices for SRAM in the United States, in violation of Section 1 of the Sherman Act, 15 U.S.C. §1.

170. In formulating and carrying out the alleged agreement, understanding, and conspiracy, the Defendants and their co-conspirators did those things that they combined and conspired to do, including but not limited to the acts, practices, and course of conduct set forth above, and the following, among others:

- a. To fix, raise, maintain and stabilize the price of SRAM;
- b. To allocate markets for SRAM among themselves;
- c. To submit rigged bids for the award and performance of certain SRAM contracts; and
- d. To allocate among themselves the production of SRAM.

171. The combination and conspiracy alleged herein has had the following effects, among others:

- a. Price competition in the sale of SRAM has been restrained, suppressed, and/or eliminated in the United States;
- b. Prices for SRAM sold by Defendants and their co-conspirators have been fixed, raised, maintained and stabilized at artificially high, non-competitive levels throughout the United States; and
- c. Those who purchased SRAM directly or indirectly from Defendants

and their co-conspirators have been deprived of the benefits of free and open competition.

172. Plaintiffs have been injured and will continue to be injured in their business and property by paying more for SRAM purchased indirectly from the Defendants and their co-conspirators than they would have paid and will pay in the absence of the combination and conspiracy, including paying more for personal computers and other products in which SRAM is a component as a result of higher prices paid for SRAM by the manufacturers of those products.

173. Plaintiffs and the class are entitled to an injunction against Defendants, preventing and restraining the violations alleged herein.

Second Claim for Relief

(Violation of the California Cartwright Act)

174. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

175. Defendants' contract, combination, trust or conspiracy was centered in, carried out, effectuated and perfected mainly within the State of California, and Defendant's conduct within California injured all members of the Class throughout the United States. Therefore, this claim for relief under California law is brought on behalf of all members of the Class, whether or not they are California residents.

176. Beginning at a time presently unknown to Plaintiffs, but at least as early as January 1, 1998, and continuing thereafter at least up to and including at least October 15, 2006, Defendants and their co-conspirators entered into and engaged in a continuing unlawful trust in restraint of the trade and commerce described above in violation of Section 16720, California Business and Professional Code. Defendants, and each of them, have acted in violation of Section 16720 to fix, raise, stabilize and maintain prices of, and allocate markets for, SRAM at supra-competitive levels.

177. The aforesaid violations of Section 16720, California Business and Professions Code, consisted, without limitation, of a continuing unlawful trust and concert of

1 action among the Defendants and their co-conspirators, the substantial terms of which were to
2 fix, raise, maintain and stabilize the prices of, and to allocate markets for, SRAM.

3 178. For the purpose of forming and effectuating the unlawful trust, the
4 Defendants and their co-conspirators have done those things which they combined and
5 conspired to do, including but in no way limited to the acts, practices and course of conduct
6 set forth above and the following:

- 7 a. to fix, raise, maintain and stabilize the price of SRAM;
- 8 b. to allocate markets for SRAM amongst themselves;
- 9 c. to submit rigged bids for the award and performance of certain SRAM
10 contracts, and
- 11 d. to allocate among themselves the production of SRAM.

12 179. The combination and conspiracy alleged herein has had, inter alia, the
13 following effects:

- 14 a. price competition in the sale of SRAM has been restrained, suppressed
15 and/or eliminated in the State of California and throughout the United
16 States;
- 17 b. prices for SRAM sold by Defendants and their co-conspirators have
18 been fixed, raised, maintained and stabilized at artificially high, non-
19 competitive levels in the State of California and throughout the United
20 States; and
- 21 c. those who purchased SRAM from Defendants and their co-conspirators
22 have been deprived of the benefit of free and open competition.

23 180. Plaintiffs and the other members of the Class paid supra-competitive,
24 artificially inflated prices for SRAM.

25 181. As a direct and proximate result of Defendants' unlawful conduct,
26 Plaintiffs and the members of the Class have been injured in their business and property in
27 that they paid more for SRAM than they otherwise would have paid in the absence of
28 Defendants' unlawful conduct. As a result of Defendants' violation of Section 16720 of the

1 California Business and Professions Code, Plaintiffs seek treble damages and the costs of suit,
2 including reasonable attorneys' fees, pursuant to Section 16750(a) of the California Business
3 and Professions Code.

4 **Third Claim for Relief**

5 **(Violation of the California Unfair Competition Law)**

6 182. Plaintiffs incorporate and reallege, as though fully set forth herein, each
7 and every allegation set forth in the preceding paragraphs of this Complaint.

8 183. Defendants' business acts and practices were centered in, carried out,
9 effectuated and perfected mainly within the State of California, and Defendant's conduct
10 within California injured all members of the Class throughout the United States. Therefore,
11 this claim for relief under California law is brought on behalf of all members of the Class,
12 whether or not they are California residents.

13 184. Beginning on a date unknown to Plaintiffs, but at least as early as
14 January 1, 1998, and continuing thereafter at least up through and including October 15, 2006,
15 Defendants committed and continue to commit acts of unfair competition, as defined by
16 Sections 17200, *et seq.* of the California Business and Professions Code, by engaging in the
17 acts and practices specified above.

18 185. This Claim is instituted pursuant to Sections 17203 and 17204 of the
19 California Business and Professions Code, to obtain restitution from these Defendants for
20 acts, as alleged herein, that violated Section 17200 of the California Business and Professions
21 Code, commonly known as the Unfair Competition Law.

22 186. The Defendants' conduct as alleged herein violated Section 17200. The
23 acts, omissions, misrepresentations, practices and non-disclosures of Defendants, as alleged
24 herein, constituted a common continuous and continuing course of conduct of unfair
25 competition by means of unfair, unlawful and/or fraudulent business acts or practices within
26 the meaning of California Business and Professions Code, Section 17200, *et seq.*, including,
27 but not limited to, the following.

28 ///

- a. The violations of Section 1 of the Sherman Act, as set forth above;
- b. The violations of Section 16720, *et seq.*, of the California Business and Professions Code, set above;
- c. Defendants' acts, omissions, misrepresentations, practices and non-disclosures, as described above, whether or not in violation of Section 16720, *et seq.* of the California Business and Professions Code, and whether or not concerted or independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent;
- d. Defendants' act and practices are unfair to consumers of SRAM in the State of California and throughout the United States, within the meaning of Section 17200, California Business and Professions Code; and
- e. Defendants' acts and practices are fraudulent or deceptive within the meaning of Section 17200 of the California Business and Professions Code.

187. Plaintiffs and each of the Class members are entitled to full restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits which may have been obtained by Defendants as a result of such business acts or practices.

188. The illegal conduct alleged herein is continuing and there is no indication that Defendants will not continue such activity into the future.

189. The unlawful and unfair business practices of Defendants, and each of them, as described above, have caused and continue to cause Plaintiffs and the members of the Class to pay supra-competitive and artificially-inflated prices for SRAM. Plaintiffs and the members of the class suffered injury in fact and lost money or property as a result of such unfair competition.

190. The conduct of Defendants as alleged in this Complaint violates Section 17200 of the California Business and Professions Code.

191. As alleged in this Complaint, Defendants and their co-conspirators

1 have been unjustly enriched as a result of their wrongful conduct and by Defendants' unfair
2 competition. Plaintiff and the members of the Class are accordingly entitled to equitable
3 relief including restitution and/or disgorgement of all revenues, earnings, profits,
4 compensation and benefits which may have been obtained by Defendants as a result of such
5 business practices, pursuant to the California Business and Professions Code, Sections 17203
6 and 17204.

7 **Fourth Claim for Relief**

8 **(Violation of State Antitrust and Unfair Competition Laws)**

9 192. Plaintiffs incorporate and reallege, as though fully set forth herein, each
10 and every allegation set forth in the preceding paragraphs of this Complaint.

11 193. By reason of the foregoing, Defendants have entered into agreements in
12 restraint of trade in violation of Arizona Revised Stat. §§44-1401 *et seq.*

13 194. By reason of the foregoing, Defendants have entered into agreements in
14 restraint of trade in violation of California Bus. & Prof. Code §§16700 *et seq.* and Cal. Bus. &
15 Prof. Code §§17200 *et seq.*

16 195. By reason of the foregoing, Defendants have entered into agreements in
17 restraint of trade in violation of District of Columbia Code Ann. §§28-4503 *et seq.*

18 196. By reason of the foregoing, Defendants have entered into agreements in
19 restraint of trade in violation of Hawaii Code, H.R.S. §§ 480-1, *et seq.*

20 197. By reason of the foregoing, Defendants have entered into agreements in
21 restraint of trade in violation of Iowa Code §§553.1 *et seq.*

22 198. By reason of the foregoing, Defendants have entered into agreements in
23 restraint of trade in violation of Kansas Stat. Ann. §§50-101 *et seq.*

24 199. By reason of the foregoing, Defendants have entered into agreements in
25 restraint of trade in violation of Maine Rev. Stat. Ann. 10, §§1101 *et seq.*

26 200. By reason of the foregoing, Defendants have entered into agreements in
27 restraint of trade in violation of Michigan Comp. Laws. Ann. §§445.773 *et seq.*

28 201. By reason of the foregoing, Defendants have entered into agreements in

1 restraint of trade in violation of Minnesota Stat. §§325D.52 *et seq.*

2 202. By reason of the foregoing, Defendants have entered into agreements in
3 restraint of trade in violation of Mississippi Code Ann. §75-21-1 *et seq.*

4 203. By reason of the foregoing, Defendants have entered into agreements in
5 restraint of trade in violation of Nebraska Rev. Stat. §§59-801 *et seq.*

6 204. By reason of the foregoing, Defendants have entered into agreements in
7 restraint of trade in violation of Nevada Rev. Stat. Ann. §§598A *et seq.*

8 205. By reason of the foregoing, Defendants have entered into agreements in
9 restraint of trade in violation of New Mexico Stat. Ann. §§57-1-1 *et seq.*

10 206. By reason of the foregoing, Defendants have entered into agreements in
11 restraint of trade in violation of North Carolina Gen. Stat. §75-1 *et seq.*

12 207. By reason of the foregoing, Defendants have entered into agreements in
13 restraint of trade in violation of North Dakota Cent. Code §§51-08.1-01 *et seq.*

14 208. By reason of the foregoing, Defendants have entered into agreements in
15 restraint of trade in violation of the Pennsylvania common law.

16 209. By reason of the foregoing, Defendants have entered into agreements in
17 restraint of trade in violation of South Dakota Codified Laws Ann. §§37-1 *et seq.*

18 210. By reason of the foregoing, Defendants have entered into agreements in
19 restraint of trade in violation of the Puerto Rico Code 10 LPRA §251, *et seq.* and 31 LPRA
20 §5141.

21 211. By reason of the foregoing, Defendants have entered into agreements in
22 restraint of trade in violation of Tennessee Code Ann. §§47-25-101 *et seq.*

23 212. By reason of the foregoing, Defendants have entered into agreements in
24 restraint of trade in violation of Vermont Stat. Ann. 9 §§2453 *et seq.*

25 213. By reason of the foregoing, Defendants have entered into agreements in
26 restraint of trade in violation of West Virginia §§47-18-1 *et seq.*

27 214. By reason of the foregoing, Defendants have entered into agreements in
28 restraint of trade in violation of Wisconsin Stat. §§133.01 *et seq.*

215. By reason of the foregoing, defendants have entered into agreements in restraint of trade in violation of Wyoming Stat. §40-12-105.

216. Class Members in each of the states listed above paid supra-competitive, artificially inflated prices for SRAM. As a direct and proximate result of Defendants' unlawful conduct, such members of the Class have been injured in their business and property in that they paid more for SRAM than they otherwise would have paid in the absence of Defendants' unlawful conduct.

217. As a result of Defendants' violations of the statutes set forth, Class members seek damages and costs of suit, including reasonable attorneys' fees.

Fifth Claim for Relief

(Violation of State Consumer Protection and Unfair Competition Laws)

218. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

219. Defendants engaged in unfair competition or unfair, unconscionable, deceptive or fraudulent acts or practices in violation of the state consumer protection and unfair competition statutes listed below.

220. Defendants have engaged in unfair competition or unconscionable, unfair or deceptive acts or practices in violation of Alaska Statutes §45.50.471 *et seq.*

221. Defendants have engaged in unfair competition or unconscionable, unfair or deceptive acts or practices in violation of Arkansas Code §4-88-101 *et seq.*

222. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of California Bus. & Prof. Code §17200 *et seq.*

223. Defendants have engaged in unfair competition or unconscionable, unfair or deceptive acts or practices in violation of District of Columbia Code §28-3901 *et seq.*

224. Defendants have engaged in unfair competition or unconscionable, unfair or deceptive acts or practices in violation of Florida Stat. §501.201 *et seq.*

225. Defendants have engaged in unfair competition or unfair or deceptive

1 acts or practices in violation of Idaho Code §48-601 *et seq.*

2 226. Defendants have engaged in unfair competition or unfair or deceptive
3 acts or practices in violation of Kansas Stat. §50-623 *et seq.*

4 227. Defendants have engaged in unfair competition or unfair or deceptive
5 acts or practices that were indirectly purchased primarily for personal, family, or household
6 purposes in violation of 5 Maine Rev. Stat. §207 *et seq.*

7 228. Defendants have engaged in unfair competition or unfair or deceptive
8 acts or practices in violation of Massachusetts General Laws, Chapter 93A, §1 *et seq.*

9 229. Defendants have engaged in unfair competition or unfair or deceptive
10 acts or practices in violation of Montana Code § 30-14-101 *et seq.*

11 230. Defendants have engaged in unfair competition or unfair or deceptive
12 acts or practices in violation of Nebraska Rev. Stat. §59-1601 *et seq.*

13 231. Defendants have engaged in unfair competition or unconscionable,
14 unfair or deceptive acts or practices in violation of New Mexico Stat. §57-12-1 *et seq.*

15 232. Defendants have engaged in unfair competition or unfair or deceptive
16 acts or practices in violation of New York Gen. Bus. Law §349 *et seq.* Specifically:

- 17 a. Defendants engaged in commerce in New York;
- 18 b. Defendants and their co-conspirators secretly agreed to raise prices by
19 direct agreement on bids to customers located in New York and
20 through artificial supply restraints on the entire SRAM market;
- 21 c. New York consumers were targets of the conspiracy;
- 22 d. The secret agreements were not known to New York consumers;
- 23 e. Defendants omitted material information that made the statements
24 which they made materially misleading, and also made materially
25 misleading affirmative statements about the real cause of price
26 increases;
- 27 f. Because of Defendants' unlawful trade practices in the State of New
28 York, Plaintiffs and other class members who indirectly purchased

1 SRAM have been injured because they have paid more for SRAM than
2 they would have paid in the absence of Defendants' unlawful trade acts
3 and practices.

4 233. Defendants have engaged in unfair competition or unconscionable,
5 unfair or deceptive acts or practices in violation of North Carolina Gen. Stat. §75-1 *et seq.*

6 234. Defendants have engaged in unfair competition or unfair or deceptive
7 acts or practices in violation of the Pennsylvania Unfair Trade Practices and Consumer
8 Protection Law, 73 P.S. Section 201-1 *et seq.*

9 235. Defendants have engaged in unfair competition or unfair or deceptive
10 acts or practices that were indirectly purchased primarily for personal, family, or household
11 purposes in violation in violation of Rhode Island Gen. Laws. §6-13.1-1 *et seq.* Specifically:

12 a. Defendants engaged in commerce in Rhode Island;

13 b. As alleged herein, Defendants engaged in acts or practices that were
14 unfair or deceptive to natural persons purchasing SRAM for personal,
15 family or household purposes;

16 c. As alleged herein, Defendants used methods, acts or practices which
17 mislead or deceive members of the public in a material respect about
18 the true reasons for the price of SRAM;

19 d. Rhode Island consumers were injured by Defendants' actions.

20 236. Defendants have engaged in unfair competition or unfair or deceptive
21 acts or practices in violation of 9 Vermont §2451 *et seq.*

22 237. Defendants have engaged in unfair competition or unfair or deceptive
23 acts or practices in violation of Wyoming Stat. §40-12-105.

24 238. Class Members in the states listed above paid supra-competitive,
25 artificially inflated prices for SRAM. As a direct and proximate result of Defendants'
26 unlawful conduct, Plaintiffs and the members of the Class have been injured in their business
27 and property in that they paid more for SRAM than they otherwise would have paid in the
28 absence of Defendants' unlawful conduct.

239. As a result of Defendants' violations of the laws listed above, the members of the Class in the states listed above are entitled to equitable relief including restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits which may have been obtained by Defendants as a result of such business practices, including compensable damages under New York law, and damages wherever else allowed by law.

Sixth Claim for Relief

(Unjust Enrichment and Disgorgement of Profits)

240. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

241. Defendants have been unjustly enriched through overpayments by Plaintiffs and Class members and the resulting profits enjoyed by Defendants as a direct result of such overpayments. Plaintiffs' detriment and Defendants' enrichment were related to and flowed from the conduct challenged in this Complaint.

242. Under common law principles of unjust enrichment, Defendants should not be permitted to retain the benefits conferred via overpayments by Plaintiffs and Class members.

243. Plaintiffs seek disgorgement of all profits resulting from such overpayments and establishment of a constructive trust from which Plaintiffs and Class members may seek restitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

A. That the Court determine that the claims alleged herein under the Sherman Act, state antitrust laws, and state consumer protection and/or unfair competition laws may be maintained as a Class action under Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure;

B. That the unlawful agreement, conduct, contract, conspiracy or combination alleged herein be adjudged and decreed to be:

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- 1 1. A restraint of trade or commerce in violation of Section 1 of the
- 2 Sherman Act, as alleged in the First Claim for Relief;
- 3 2. An unlawful combination, trust, agreement, understanding, and/or
- 4 concert of action in violation of the state antitrust laws identified in the
- 5 Second and Fourth Claims for Relief herein;
- 6 3. Violations of the state consumer protection and unfair competition laws
- 7 identified in the Third and Fifth Claims for Relief herein; and
- 8 4. Acts of unjust enrichment as set forth in the Sixth Claim for Relief
- 9 herein.

10 C. That Plaintiffs and the Class members recover damages, as provided by
11 federal and state antitrust laws, and that a judgment be entered in favor of Plaintiffs and the
12 relevant Class members against the Defendants, jointly and severally, in an amount to be
13 trebled in accordance with such laws (except as to New York Gen. Bus. Law §349 *et seq.* for
14 which Plaintiffs do not seek discretionary trebling).

15 D. That Plaintiffs and the relevant Class members obtain any penalties,
16 punitive or exemplary damages, and/or full consideration, where the laws of the respective
17 states identified herein so permit;

18 E. That Plaintiffs and the relevant Class members recover damages and/or
19 all other available monetary and equitable remedies under the state unfair competition laws
20 identified above;

21 F. That Defendants, their affiliates, successors, transferees, assignees, and
22 the officers, directors, partners, agents, and employees thereof, and all other persons acting or
23 claiming to act on their behalf, be permanently enjoined and restrained from in any manner
24 continuing, maintaining, or renewing the conduct, contract, conspiracy or combination
25 alleged herein, or from entering into any other conspiracy alleged herein, or from entering
26 into any other contract, conspiracy or combination having a similar purpose or effect, and
27 from adopting or following any practice, plan, program, or device having a similar purpose
28 or effect,

G. That Plaintiffs and members of the Class be awarded restitution, including disgorgement of profits obtained by Defendants as a result of their acts of unfair competition and acts of unjust enrichment,

H. That Plaintiffs and members of the Class be awarded pre- and post-judgment interest, and that that interest be awarded at the highest legal rate from and after the date of service of the initial complaint in this action;

I. That Plaintiffs and members of the Class recover their costs of this suit, including reasonable attorneys' fees as provided by law; and

J. That Plaintiffs and members of the Class have such other, further, and different relief as the case may require and the Court may deem just and proper under the circumstances.

Dated: August 30, 2007

Respectfully submitted

_____, /s/ Craig C. Corbitt
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